

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

Civil Action No. )

CABOT CORPORATION; )

NCR CORPORATION; )

AMERICAN TELEPHONE and )

TELEGRAPH COMPANY, INC.; )

INTERNATIONAL BUSINESS )

MACHINES CORPORATION; )

UNISYS CORPORATION; )

CARPENTER TECHNOLOGY )

CORPORATION; )

SQUARE D COMPANY; and )

GENERAL ELECTRIC COMPANY, )

Defendants. )

**COMPLAINT**

1. The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), files this complaint and alleges as follows:

**STATEMENT OF THE CASE**

2. This is a civil action for recovery of costs brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9607, as amended by the Superfund Amendments and Reauthorization Act of 1986, 100 Stat. 1613 (1986) ("CERCLA"); the United States seeks to recover costs it has incurred in connection

with the facility known as the Revere Chemical Superfund Site in Nockamixon Township, Bucks County, Pennsylvania (the "Site").

3. In addition, the United States seeks a judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), declaring that the Defendants are jointly and severally liable for any further response costs that the United States may incur as a result of releases or threatened releases of hazardous substances from the Sites.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action and the parties hereto, pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331 and 1345.

5. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c), because the claims arose and the threatened and actual releases of hazardous substances occurred in this district.

#### **DEFENDANTS**

6. Each of the above-captioned Defendants is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

7. Each of the Defendants is a person, or a successor to a person, who by contract, agreement or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned by each such Defendant at the Site, as described in Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

### **GENERAL ALLEGATIONS**

8. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
9. "Disposal" of "hazardous substances" within the meaning of Section 101(29) and (14) of CERCLA, 42 U.S.C. § 9601(29) and (14), including but not limited to acid, metal and plating wastes such as chromic acid, copper sulfate, heavy metals, sulfuric acid and ammonia, occurred at the Site when such hazardous substances were dumped onto the surface.
10. There were "releases" or the threat of "releases" of hazardous substances into the environment at the Site within the meaning of Sections 101(22) and 101(14) of CERCLA, 42 U.S.C. § 9601(22) and (14).
11. The Site was listed on the National Priorities List (NPL) for Superfund sites in January 1987.
12. The Remedial Investigation/ Feasibility Study for the Site found: that Site soils were contaminated with heavy metals such as copper, chromium, mercury, beryllium and organic compounds such as trichloroethylene (TCE), and trichlorobenzene (TCB); that shallow groundwater was contaminated with TCE, TCB and bis(2-ethylhexyl) phthalate; and that stream sediments were contaminated with copper, chromium and mercury.
13. A Record of Decision (ROD) for remediation of Site soils was signed by the Regional Administrator on December 27, 1993.
14. On December 14, 1994, U.S. EPA issued a Unilateral Administrative Order directing respondents, including Defendants, to design and perform soil remediation at the Site.

### **FIRST CLAIM FOR RELIEF**

15. Paragraphs 1-14 are realleged and incorporated herein by reference.
16. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in part, that:
  - (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances, and
  - (4) . . . from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for –
    - (A) all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the national contingency plan[.]
17. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides, in part:

In any [action for recovery of the costs referred to in section 9607 of this title], the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages.
18. The United States has incurred "response costs," as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), to respond to the release or threatened release of hazardous substances at the Site.
19. The costs incurred by the United States in connection with the Site are not inconsistent with the National Contingency Plan, which was promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and codified at 40 C.F.R. Part 300, et seq.
20. Each defendant is a member of one of the classes of liable parties described in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

21. Each defendant is jointly and severally liable to the United States pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all response costs incurred by the United States in connection with the Site, including enforcement costs.

22. Each defendant is liable to the United States pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for prejudgment interest on those response costs for which a demand for payment was made.

23. The United States continues to incur response costs in connection with the Site. As of July 24, 2001, the United States had incurred unreimbursed response costs, including prejudgment interest, of \$1,318,476.77 in connection with the Site.

24. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Defendants are jointly and severally liable to the United States for all response costs incurred and to be incurred by the United States in connection with the Site, including enforcement costs and prejudgment interest on such costs.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, the United States of America, respectfully requests that the Court:

1. Award the United States a judgment against Defendants, jointly and severally, for all costs incurred by the United States in connection with the Site;
2. Award the United States a declaratory judgment that each Defendant is liable for future costs incurred by the United States in connection with the Site;
3. Award the United States its costs and fees in this action; and
4. Grant such other and further relief as is appropriate.

Respectfully submitted,

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Division

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